REMARKS

Reconsideration and allowance in view of the foregoing amendment and the following remarks are respectfully requested.

Rejection of Claims 22-25, 27, 29-32 and 34 Under 35 U.S.C. §103(a)

The Office Action rejects claims 22-25, 27, 29-32 and 34 under 35 U.S.C. §103(a) as being unpatentable over Ezzat et al. (Visual Speech Synthesis by Morphing Visemes) ("Ezzat et al.") in view of Jiang et al. (Visual Speech Analysis with Application to Mandarin Speech Training) ("Jiang et al.") in view of Cox et al. (Speech and language processing for next-millennium communications services) ("Cox et al."). Applicants respectfully traverse this rejection and submit that the claims are patentable because the Cox et al. reference falls under the exclusion of 35 U.S.C. §103(c).

Section 103(c) requires that subject matter developed by another person, which qualifies as prior art only under one or more of sub-sections (e), (f), and (g) of Section 102 of this title shall not preclude patentability under this section where the subject matter of the claimed invention were, at the time of the invention, was made, owned by the same person or subject to an obligation of assignment to the same person. Cox et al. is an article published in the Proceedings of IEEE in August of 2000. The present application cites priority to a parent case with a priority of March 29, 2001. Applicants respectfully submit that Cox et al. is not prior art under 35 U.S.C. §102(a). First, this document is not a patent. Secondly, this document to the extent that it is a printed publication does not describe the invention "before the invention thereof by the applicant for patent." Attached hereto in Appendix A, is a document that establishes that Applicants conceived of the invention prior to August 2000 the publication of Cox et al. On April 4, 2000, an internal document referencing the "Docket No. 2000-0042" of the parent case was approved for filing on March 17, 2000 by a multimedia IP review team. Inasmuch as it is

clear that the present invention was submitted to AT&T's internal processing well before the publication date of Cox et al., it is clear that 35 U.S.C. §102(a) does not apply.

Next, it is clear that the Cox et al. document is not Section 102(b) art inasmuch as it is not a printed publication that is more than one year prior to the date of application for patent in the United States. Therefore, it is clearly established that the reference is not Section 102(b) art. Applicants also submit that the current invention is clearly not Section 102(c) art or Section 102(d) inasmuch as Cox et al. is not a patent or the subject of an inventor certificate. Therefore, the only possible qualification of the prior art is under one or more of Section (e), (f) and (g), thus making 35 U.S.C. §103(c) apply.

Applicants respectfully submit that it is clear from the Cox et al. document itself that the subject matter in Cox et al., as well as the claimed invention were, at the time of the claimed invention was made, owned by the same person or subject to an obligation of assignment under the same person. At the bottom of the first column of page 1314 of the Cox et al. document it highlights that "the authors are with AT&T Labs-Research, Florham Park, NJ 07932 USA." Each of the authors was well-known AT&T employees at the time of the invention. Clearly, the Cox et al. document was submitted and published in the same year as the submission of the present invention and thus, Applicants respectfully submit that at the time the claimed invention was made in the present case, that the subject matter of the Cox et al. document is easily established as being subject to an obligation of assignment to the same person (AT&T). Applicants note that there is internally enough sufficient evidence to establish the applicability of 35 U.S.C. §103(c). However, if further details or evidence is necessary, Applicants submit that it would be easy to obtain declarations of affidavits in order to confirm Applicants' position that Cox et al. cannot be cited under Section 103 against the present invention.

Accordingly, Applicants respectfully submit that claims 22-25, 27, 29-32 and 34 are patentable and in condition for allowance.

Rejection of Claims 28 and 35 Under 35 U.S.C. §103(a)

The Office Action rejects claims 28 and 35 under 35 U.S.C. §103(a) as being unpatentable over Ezzat et al. in view of Jiang et al. further in view of Cox et al. and further in view of Brand (Voice Puppetry) ("Brand"). Applicants respectfully traverse this rejection and submit that for the same reasons set forth above, that Cox et al. cannot be cited under 35 U.S.C. §103 to rejection these claims. Accordingly, Applicants submit that these claims are patentable and in condition for allowance as well.

CONCLUSION

Having addressed all rejections and objections, Applicants respectfully submit that the subject application is in condition for allowance and a Notice to that effect is earnestly solicited. If necessary, the Commissioner for Patents is authorized to charge or credit the **Novak, Druce & Quigg, LLP. Account No. 14-1437** for any deficiency or overpayment.

Respectfully submitted,

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By: _____

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